

SUBCHAPTER 4. STATE INVESTMENT COUNCIL'S POLICY CONCERNING  
POLITICAL CONTRIBUTIONS AND PROHIBITIONS ON  
INVESTMENT MANAGEMENT BUSINESS

17:16-4.1 Purpose

- (a) It is the policy of the State Investment Council to ensure that the selection of investment management firms to provide investment management services to the State pension funds is based on the merits of such firms and not on the political contributions made by such firms. This subchapter is designed to protect the beneficiaries of the pension funds, the State taxpayers and the public interest by:
1. Prohibiting investment management firms from being engaged to provide investment management services to the State if certain political contributions have been made; and
  2. Requiring investment management firms that provide or are applying to provide investment management services to the State to disclose certain political contributions, as well as other information, thereby allowing meaningful public scrutiny of the selection of investment management firms.

17:16-4.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context directly indicates otherwise.

“Control” means to possess, directly or indirectly, influence or authority over another.

“Council” means the State Investment Council.

“Investment management firm” means one or more natural persons, corporations, partnerships or other entities, incorporated or unincorporated, that provide investment management services.

“Investment management professional” means:

1. Any person associated with an investment management firm who is primarily engaged in the provision of investment management services;
2. Any person associated with an investment management firm involved in client development or the solicitation of business for investment management services from pension fund clients;

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3. Any person associated with an investment management firm who is a supervisor or any person described in 1 or 2 above, up through and including the Chief Executive Officer or similarly situated official; or
4. Any person associated with an investment management firm who is a member of such firm's executive or management committee or similarly situated officials, if any.

“Investment management services” means:

1. The business of making or recommending investment management decisions for or on behalf of the State pension fund clients;
2. The business of advising or managing a separate entity which makes or recommends investment management decisions for or on behalf of the State pension fund clients; or
3. The provision of financial advisory or consultant services to State pension fund clients

“Payment” means any gift, subscription, loan, advance, or deposit of money or anything of value.

“Political contribution” means any gift, subscription, loan, advance, or deposit of money or anything of value made:

1. For the purpose of influencing any election for State office;
2. For the purpose of influencing any election for local office by a person who is also:
  - i. A State official, or
  - ii. An employee or advisor of either the State or a State official;
3. For payment of debt incurred in connection with any such election; or
4. For transition or inaugural expenses incurred by the successful candidate in any such election.

“Political party” means any political party or political committee organized in this State, including county and “independent” committees.

“State” means the State of New Jersey. Communication with the State includes communication with its officers and employees.

“State official” means any person (including any election or political action committee for such person) who was, at the time of the political contribution, an incumbent, candidate or successful candidate for Governor or for a seat in the Legislature. Communication with a State official includes communication with the employees and advisors of such official.

“Third party solicitor” means a third party lobbyist who solicits investment management business through direct or indirect communication with the State or a State official on behalf of an investment management firm, but does not include any person whose sole basis of compensation from the investment management firm is the actual provision of legal, accounting, engineering, real estate or other professional advice, services or assistance.

#### 17:16-4.3 Restrictions

(a) The Division of Investment shall not engage an investment management firm to provide investment management services for the benefit of the State or its pension funds and shall terminate the contract of any investment management firm if, within the two years prior to such engagement or during the term of such engagement, any political contribution or payment to a political party covered by this policy has been made or paid by:

1. The investment management firm;
2. Any investment management professional associated with such investment management firm;
3. Any third party solicitor associated with such investment management firm; or
4. Any political action committee controlled by the investment management firm or an investment management professional of such investment management firm.

(b) The provision of (a) above shall not, however, prohibit the investment management firm from being engaged to provide investment management services to the State if the only political contributions made by a person noted above within the two years prior to, and during, any such engagement were/are made by the contributor to State officials for whom the contributor was/is entitled to vote. Political contributions made by a contributor, pursuant to this subchapter, shall not exceed \$250.00 per State official, per election.

(c) The provisions of (a) above shall not, however, prohibit the investment management firm from being engaged to provide investment management services to the State if the only payments to any political party made by a person noted above within the two years prior to, and during, any such engagement did/do not exceed \$250.00 per political party, per year.

(d) The provisions of (a) through (c) above shall apply to political contributions and payments to political parties made by any individual or entity for the 12-month period prior to such individual or entity becoming an investment management firm, investment management professional or third party solicitor.

#### 17:16-4.4 Solicitations

(a) Any investment management firm, investment management professional or third party solicitor that is engaged or is seeking to be engaged in providing investment management services to the State shall not:

1. Solicit any person or political action committee to make a political contribution or payment to a political party;
2. Coordinate political contributions or payments to a political party;
3. Fund political contributions or payments to a political party made by third parties, including consultants, attorneys, family members or persons controlling the investment management firm; or
4. Engage in any exchange of political contributions or payments between State officials or political parties to circumvent the intent of this policy.

#### 17:16-4.5 Indirect violations

No investment management firm, investment management professional or third party solicitor shall, directly or indirectly, through or by any other person or means, do any act which would violate the provisions of N.J.A.C. 17:16-4.3 or 4.4.

#### 17:16-4.6 Reporting

(a) Each investment management firm that seeks to be engaged to provide investment management services to the State shall designate those persons who qualify as investment management professionals.

(b) Except as otherwise provided in (d) below, each investment management firm that is engaged to provide investment management services to the State shall, by the last day of the month following the end of each calendar quarter, send to the Council and the Division of Investment the following information:

1. Any updates to designations pursuant to (a) above;

2. For all political contributions and payments to political parties in the State made by persons described in N.J.A.C. 17:16-4.3(a), excluding any political contribution or payment to a political party made pursuant to N.J.A.C. 17:16-4.3(b) and (c):

- i. The name and address of the contributor;
- ii. The name and title of each State official or political party receiving the political contribution or payment;
- iii. The amount of the political contribution or payment to the political party; and
- iv. The date of the political contribution or payment to the political party.

3. Whether any political contribution or payment to a political party listed in (b) above is the subject of an exemption pursuant to N.J.A.C. 17:16-4.10, and the date of such exemption; and

4. For any payment made to a third party solicitor: the name and business address of the recipient, the services provided by the recipient, the compensation arrangement between the investment management firm and the recipient, and the total dollar amount of payments made during the report period.

(c) Each investment management firm seeking to be engaged to provide investment management services to the State shall send to the Council and the Division of Investment quarterly disclosure reports as provided in (b) above for a period of time which is the lesser of two years or from (the effective date of this rule), prior to the date of its application or proposal to provide investment management services to the State.

(d) No investment management firm shall be required to report to the Council and the Division of Investment for any calendar quarter in which such investment management firm has no information that is required to be reported pursuant to (b) above for such calendar quarter.

(e) Once a political contribution or payment to a political party or third party solicitor has been disclosed on a report, the investment management firm need not disclose that particular contribution or payment on subsequent reports.

(f) Each investment management firm seeking to be engaged to provide investment management services to the State shall report the information required by this section on forms provided by the Division of Investment.

(g) Each Council member shall comply with the reporting provisions of (b) above for their term as a member of the Council. Each Council member shall further send to the Council quarterly disclosure reports as provided in (b) above for the four quarters immediately preceding (the effective date of this rule).

(h) It is prohibited for any Council member to receive any form of compensation, gratuity, gift, service or payment in connection with the hiring or retention of any investment management firm by the Division of Investment, any investment management professional associated therewith or third party solicitor related thereto during the Council member's term and for a two-year period immediately following the completion of such Council member's term. This subsection shall include any and all compensation, gratuity, service or payment from such investment management firm, investment management professional or third party solicitor made to the Council member's immediate family. For the purposes of this subsection, "immediate family" shall mean a person's spouse, child, parent or sibling residing in the same household or a person's domestic partner as defined in P.L. 2003, c. 246 (N.J.S.A. 26:8A-3).

#### 17:16-4.7 Public disclosure

The Council and the Division of Investment shall make public a copy of each report received from an investment management firm within 30 days of its receipt or as otherwise required by law.

#### 17:16-4.8 Additional information

The Council and the Division of Investment will accept additional information related to political contributions, payments to political parties and payments to third party solicitors voluntarily submitted by investment management firms or others.

#### 17:16-4.9 Contract termination

The Division of Investment shall provide in each contract with an investment management firm that a violation of the provisions of this subchapter shall be cause for immediate termination of such contract.

#### 17:16-4.10 Exemptions

(a) An investment management firm that is prohibited from being engaged to provide investment management services to the State pursuant to N.J.A.C. 17:16-4.3 may exempt itself from such prohibition, subject to (b) and (c) below, upon satisfaction of the following requirements:

1. The investment management firm must have discovered the political contribution or the payment to a political party that resulted in the prohibition on business within four months of the date of such contribution or payment;
2. Such political contribution or payment to a political party must not have exceeded \$250.00; and

3. The contributor must obtain a return of the political contribution or payment to the political party within 60 calendar days of the date of discovery of such contribution or payment.
  - (b) An investment management firm is entitled to no more than two exemptions for every 12-month period.
  - (c) An investment management firm may not utilize more than one exemption relating to political contributions or payment to a political party by the same investment management professional or third party solicitor regardless of the time period.

#### 17:16-4.11 Effectiveness

The prohibitions and disclosures found in this subchapter, except for the provisions of N.J.A.C. 17:16-4.6(h) relating to Council members, arise only from political contributions, payments to political parties or payments to third party solicitors made or paid on or after (the effective date of this rule). The reporting requirements found in this subchapter, as applicable, shall take effect upon (the effective date of this rule).